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8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 2013-378

13 **LYNDA M. ANDERSON,**
14 **aka LYNDA M. PICKERING,**
15 **aka LYNDA MICHELLE TIPPS**
16 **28891 Rockport Drive**
17 **Laguna Niguel, CA 92677**

DEFAULT DECISION AND ORDER

[Gov. Code, §11520]

18 **Registered Nurse License No. 586415**

19 Respondent.

20 **FINDINGS OF FACT**

21 1. On or about November 7, 2012, Complainant Louise R. Bailey, M.Ed., R.N., in her
22 official capacity as the Executive Officer of the Board of Registered Nursing, Department of
23 Consumer Affairs, filed Accusation No. 2013-378 against Lynda M. Anderson, also known as
24 Lynda M. Pickering, also known as Lynda Michelle Tipps (Respondent) before the Board of
25 Registered Nursing. (The Accusation is attached as Exhibit A.)

26 2. On or about August 28, 2001, the Board of Registered Nursing (Board) issued
27 Registered Nurse License No. 586415 to Respondent. The Registered Nurse License expired on
28 April 30, 2007, and has not been renewed.

3. Section 2764 of the Code provides, in pertinent part, that the expiration of a license
shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the

1 licensee or to render a decision imposing discipline on the license. Under section 2811,
2 subdivision (b) of the Code, the Board may renew an expired license at any time within eight
3 years after the expiration.

4 4. On or about November 7, 2012, Respondent was served by Certified and First Class
5 Mail copies of the Accusation No. 2013-378, Statement to Respondent, Notice of Defense,
6 Request for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6,
7 and 11507.7) at Respondent's address of record which, pursuant to California Code of
8 Regulations, title 16, section 1409.1 and Business and Professions Code section 136, is required
9 to be reported and maintained with the Board. Respondent's address of record was and is:

10 28891 Rockport Drive
11 Laguna Niguel, CA 92677

12 5. Service of the Accusation was effective as a matter of law under the provisions of
13 Government Code section 11505, subdivision (c) and/or Business & Professions Code section
14 124.

15 6. On or about November 20, 2012, and November 21, 2012, the aforementioned
16 documents served by First Class Mail and Certified Mail, respectively, were returned by the U.S.
17 Postal Service marked "Not Deliverable as Addressed - Unable to Forward." The address on the
18 documents was the same as the address on file with the Board. Respondent failed to maintain an
19 updated address with the Board and the Board has made attempts to serve the Respondent at the
20 address on file. Respondent has not made herself available for service and therefore, has not
21 availed herself of her right to file a notice of defense and appear at hearing.

22 7. Government Code section 11506 states, in pertinent part:

23 (c) The respondent shall be entitled to a hearing on the merits if the respondent
24 files a notice of defense, and the notice shall be deemed a specific denial of all parts
25 of the accusation not expressly admitted. Failure to file a notice of defense shall
26 constitute a waiver of respondent's right to a hearing, but the agency in its discretion
27 may nevertheless grant a hearing.

28 8. Respondent failed to file a Notice of Defense within 15 days after service upon her of
the Accusation, and therefore waived her right to a hearing on the merits of Accusation No. 2013-
378.

1 9. California Government Code section 11520 states, in pertinent part:

2 (a) If the respondent either fails to file a notice of defense or to appear at the
3 hearing, the agency may take action based upon the respondent's express admissions
4 or upon other evidence and affidavits may be used as evidence without any notice to
5 respondent.

6 10. Pursuant to its authority under Government Code section 11520, the Board finds
7 Respondent is in default. The Board will take action without further hearing and, based on the
8 relevant evidence contained in the Default Decision Evidence Packet in this matter, as well as
9 taking official notice of all the investigatory reports, exhibits and statements contained therein on
10 file at the Board's offices regarding the allegations contained in Accusation No. 2013-378, finds
11 that the charges and allegations in Accusation No. 2013-378, are separately and severally, found
12 to be true and correct by clear and convincing evidence.

13 11. Taking official notice of its own internal records, pursuant to Business and
14 Professions Code section 125.3, it is hereby determined that the reasonable costs for Investigation
15 and Enforcement is \$672.50 as of December 12, 2012.

16 DETERMINATION OF ISSUES

17 1. Based on the foregoing findings of fact, Respondent Lynda M. Anderson, also known
18 as Lynda M. Pickering, also known as Lynda Michelle Tipps has subjected her Registered Nurse
19 License No. 586415 to discipline.

20 2. The agency has jurisdiction to adjudicate this case by default.

21 3. The Board of Registered Nursing is authorized to revoke Respondent's Registered
22 Nurse License based upon the following violations alleged in the Accusation which are supported
23 by the Default Decision Investigatory Evidence Packet in this case:

24 a. Respondent has subjected her license to disciplinary action under sections 490
25 and 2761, subdivision (f) of the Code in that on or about October 31, 2007, in a criminal
26 proceeding entitled *State of Arizona v. Lynda Michelle Tipps*, in Mesa Municipal Court, docket
27 number 2007033453, Respondent was convicted on her plea of guilty of violating Arizona
28 Revised Statutes section 28-1382, subdivision (a), driving under the extreme influence of alcohol,

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1 a Class 1 misdemeanor, a crime that is substantially related to the qualifications, functions, and
2 duties of a registered nurse.

3 b. Respondent has subjected her registered nurse license to disciplinary action
4 under section 2762, subdivision (b) of the Code for unprofessional conduct in that on or about
5 April 27, 2007, Respondent used alcoholic beverages to an extent or in a manner that was
6 dangerous and injurious to herself, and to others in that she operated a motor vehicle while
7 significantly impaired.

8 c. Respondent has subjected her registered nurse license to disciplinary action
9 under section 2762, subdivision (c) of the Code for unprofessional conduct in that on or about
10 October 31, 2007, Respondent was convicted in a criminal matter involving the consumption of
11 alcohol.

12 d. Respondent has subjected her license to disciplinary action under sections 490
13 and 2761, subdivision (f) of the Code in that on or about October 28, 2008, in a criminal
14 proceeding entitled *People of the State of California. Lynda Michelle Anderson*, in Orange
15 County Superior Court, case number 06CF0280, Respondent was convicted on her plea of guilty
16 of violating Penal Code section 32, accessory to a felony, a crime that is substantially related to
17 the qualifications, functions, and duties of a registered nurse.

18 e. Respondent has subjected her license to disciplinary action under section 2761,
19 subdivision (a)(4) of the Code in that on or about February 2, 2011, in Order No. 0908036,
20 Respondent entered into a Consent for Entry of Voluntary Surrender with the Arizona State
21 Board of Nursing which allowed Respondent to surrender her nursing license in lieu of a formal
22 hearing on the disciplinary charges filed against her.

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ORDER

IT IS SO ORDERED that Registered Nurse License No. 586415, heretofore issued to Respondent Lynda M. Anderson, also known as Lynda M. Pickering, also known as Lynda Michelle Tipps, is revoked.

Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a written motion requesting that the Decision be vacated and stating the grounds relied on within seven (7) days after service of the Decision on Respondent. The agency in its discretion may vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

This Decision shall become effective on APRIL 11, 2013.

It is so ORDERED MARCH 12, 2013


FOR THE BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS

DOJ Matter ID: SD2012704094

Attachment:
Exhibit A: Accusation

Exhibit A

Accusation

1 KAMALA D. HARRIS
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2 LINDA K. SCHNEIDER
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3 State Bar No. 101336
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Attorneys for Complainant

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9 **BEFORE THE**
BOARD OF REGISTERED NURSING
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. *2013-378*

13 **LYNDA M. ANDERSON,**
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28891 Rockport Drive
Laguna Niguel, CA 92677

A C C U S A T I O N

16 **Registered Nurse License No. 586415**

17 Respondent.

18
19 Complainant alleges:

20 **PARTIES**

21 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her
22 official capacity as the Executive Officer of the Board of Registered Nursing, Department of
23 Consumer Affairs.

24 2. On or about August 28, 2001, the Board of Registered Nursing issued Registered
25 Nurse License Number 586415 to Lynda M. Anderson, also known as Lynda M. Pickering, also
26 known as Lynda Michelle Tipps (Respondent). The Registered Nurse License expired on April
27 30, 2007, and has not been renewed.

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JURISDICTION

3. This Accusation is brought before the Board of Registered Nursing (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code (Code) unless otherwise indicated.

4. Section 2764 of the Code provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license. Under section 2811, subdivision (b) of the Code, the Board may renew an expired license at any time within eight years after the expiration.

STATUTORY PROVISIONS

5. Section 482 of the Code states:

Each board under the provisions of this code shall develop criteria to evaluate the rehabilitation of a person when:

(a) Considering the denial of a license by the board under Section 480; or

(b) Considering suspension or revocation of a license under Section 490.

Each board shall take into account all competent evidence of rehabilitation furnished by the applicant or licensee.

6. Section 490 of the Code provides, in pertinent part, that a board may suspend or revoke a license on the ground that the licensee has been convicted of a crime substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued.

7. Section 493 of the Code states:

Notwithstanding any other provision of law, in a proceeding conducted by a board within the department pursuant to law to deny an application for a license or to suspend or revoke a license or otherwise take disciplinary action against a person who holds a license, upon the ground that the applicant or the licensee has been convicted of a crime substantially related to the qualifications, functions, and duties of the licensee in question, the record of conviction of the crime shall be conclusive evidence of the fact that the conviction occurred, but only of that fact, and the board may inquire into the circumstances surrounding the commission of the crime in order to fix the degree of discipline or to determine if the conviction is substantially related to the qualifications, functions, and duties of the licensee in question.

As used in this section, "license" includes "certificate," "permit," "authority," and "registration."

1 8. Section 2761 of the Code states:

2 The board may take disciplinary action against a certified or licensed nurse or
3 deny an application for a certificate or license for any of the following:

4 (a) Unprofessional conduct, which includes, but is not limited to, the
5 following:

6 (4) Denial of licensure, revocation, suspension, restriction, or any other
7 disciplinary action against a health care professional license or certificate by another
8 state or territory of the United States, by any other government agency, or by another
9 California health care professional licensing board. A certified copy of the decision
10 or judgment shall be conclusive evidence of that action.

11 (f) Conviction of a felony or of any offense substantially related to the
12 qualifications, functions, and duties of a registered nurse, in which event the record of
13 the conviction shall be conclusive evidence thereof.

14 9. Section 2762 of the Code states:

15 In addition to other acts constituting unprofessional conduct within the meaning
16 of this chapter [the Nursing Practice Act], it is unprofessional conduct for a person
17 licensed under this chapter to do any of the following:

18 (b) Use any controlled substance as defined in Division 10 (commencing with
19 Section 11000) of the Health and Safety Code, or any dangerous drug or dangerous
20 device as defined in Section 4022, or alcoholic beverages, to an extent or in a manner
21 dangerous or injurious to himself or herself, any other person, or the public or to the
22 extent that such use impairs his or her ability to conduct with safety to the public the
23 practice authorized by his or her license.

24 (c) Be convicted of a criminal offense involving the prescription, consumption,
25 or self-administration of any of the substances described in subdivisions (a) and (b) of
26 this section, or the possession of, or falsification of a record pertaining to, the
27 substances described in subdivision (a) of this section, in which event the record of
28 the conviction is conclusive evidence thereof.

29 10. Section 2765 of the Code states:

30 A plea or verdict of guilty or a conviction following a plea of nolo contendere
31 made to a charge substantially related to the qualifications, functions and duties of a
32 registered nurse is deemed to be a conviction within the meaning of this article. The
33 board may order the license or certificate suspended or revoked, or may decline to
34 issue a license or certificate, when the time for appeal has elapsed, or the judgment of

conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code allowing such person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information or indictment.

REGULATORY PROVISIONS

11. California Code of Regulations, title 16, section 1444, states:

A conviction or act shall be considered to be substantially related to the qualifications, functions or duties of a registered nurse if to a substantial degree it evidences the present or potential unfitness of a registered nurse to practice in a manner consistent with the public health, safety, or welfare. Such convictions or acts shall include but not be limited to the following:

(a) Assaultive or abusive conduct including, but not limited to, those violations listed in subdivision (d) of Penal Code Section 11160.

(b) Failure to comply with any mandatory reporting requirements.

(c) Theft, dishonesty, fraud, or deceit.

(d) Any conviction or act subject to an order of registration pursuant to Section 290 of the Penal Code.

12. California Code of Regulations, title 16, section 1445 states:

.....

(b) When considering the suspension or revocation of a license on the grounds that a registered nurse has been convicted of a crime, the board, in evaluating the rehabilitation of such person and his/her eligibility for a license will consider the following criteria:

(1) Nature and severity of the act(s) or offense(s).

(2) Total criminal record.

(3) The time that has elapsed since commission of the act(s) or offense(s).

(4) Whether the licensee has complied with any terms of parole, probation, restitution or any other sanctions lawfully imposed against the licensee.

(5) If applicable, evidence of expungement proceedings pursuant to Section 1203.4 of the Penal Code.

(6) Evidence, if any, of rehabilitation submitted by the licensee.

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1 **COSTS**

2 13. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
3 administrative law judge to direct a licensee found to have committed a violation or violations of
4 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
5 enforcement of the case.

6 **FIRST CAUSE FOR DISCIPLINE**

7 **(October 31, 2007 Criminal Conviction for Extreme DUI on April 27, 2007)**

8 14. Respondent has subjected her license to disciplinary action under sections 490 and
9 2761, subdivision (f) of the Code in that Respondent was convicted of a crime that is substantially
10 related to the qualifications, functions, and duties of a registered nurse. The circumstances are as
11 follows:

12 a. On or about October 31, 2007, in a criminal proceeding entitled *State of*
13 *Arizona v. Lynda Michelle Tipps*, in Mesa Municipal Court, docket number 2007033453,
14 Respondent was convicted on her plea of guilty of violating Arizona Revised Statutes section 28-
15 1382, subdivision (a), driving under the extreme influence of alcohol, a Class 1 misdemeanor.

16 b. As a result of the conviction, on or about October 31, 2007, Respondent was
17 sentenced to 30 days in jail, with 48 hours straight time, and 20 days suspended if Respondent
18 completed court-ordered alcohol screening and counseling. Respondent was further ordered to
19 pay fees, fines, and assessments in the amount of \$3,607.20, install an ignition interlock device on
20 her vehicle, and comply with standard alcohol conditions.

21 c. The facts that led to the conviction are that on or about the afternoon of April
22 27, 2007, Respondent was arrested for driving a vehicle with a blood alcohol concentration of .15
23 percent or more.

24 **SECOND CAUSE FOR DISCIPLINE**

25 **(Use of Alcohol in a Dangerous Manner)**

26 15. Respondent has subjected her registered nurse license to disciplinary action under
27 section 2762, subdivision (b) of the Code for unprofessional conduct in that on or about April 27,
28 2007, as described in paragraph 14, above, Respondent used alcoholic beverages to an extent or

1 in a manner that was dangerous and injurious to herself, and to others in that she operated a motor
2 vehicle while significantly impaired.

3 **THIRD CAUSE FOR DISCIPLINE**

4 **(Alcohol-Related Criminal Conviction)**

5 16. Respondent has subjected her registered nurse license to disciplinary action under
6 section 2762, subdivision (c) of the Code for unprofessional conduct in that on or about October
7 31, 2007, as described in paragraph 14, above, Respondent was convicted in a criminal matter
8 involving the consumption of alcohol.

9 **FOURTH CAUSE FOR DISCIPLINE**

10 **(October 28, 2008 Criminal Conviction for Accessory to a Felony on January 5, 2006)**

11 17. Respondent has subjected her license to disciplinary action under sections 490 and
12 2761, subdivision (f) of the Code in that Respondent was convicted of a crime that is substantially
13 related to the qualifications, functions, and duties of a registered nurse. The circumstances are as
14 follows:

15 a. On or about October 28, 2008, in a criminal proceeding entitled *People of the*
16 *State of California. Lynda Michelle Anderson*, in Orange County Superior Court, case number
17 06CF0280, Respondent was convicted on her plea of guilty of violating Penal Code section 32,
18 accessory to a felony, a count added by interlineation, which dismissed additional counts of
19 pimping (Pen. Code, § 266h(a)), pandering (Pen. Code, § 266i(a)(1)), and keeping a house of ill
20 fame (Pen. Code, § 315).

21 b. As a result of the conviction, on or about October 28, 2008, Respondent was
22 sentenced to 180 days in the Orange County Jail, granted three years formal probation, ordered to
23 pay fines and fees, and to comply with felony probation terms.

24 c. The Orange County Sheriff's Department commenced an investigation of
25 Respondent and her husband in December 2005 after receiving reports that they were operating a
26 brothel in a Laguna Niguel neighborhood. Respondent and her husband operated a website that
27 advertised escort services, and they also advertised on a website that offered various erotic
28 services and merchandise for sale. An undercover deputy contacted Respondent's husband to

1 arrange a date with Respondent. On or about January 5, 2006, the undercover deputy met with
2 Respondent at her residence where she attempted to engage him in various unsolicited sex acts for
3 a cash donation of \$500. Using a predetermined arrest signal to deputies positioned outside the
4 residence, a search warrant was served. Respondent was arrested; two other escorts at the
5 residence and a customer were questioned and released. Deputies seized business records, bank
6 records, currency, checks, client appointment notes, computers, a large amount of sexually-
7 related materials, and other documentation substantiating a prostitution ring.

8 **FIFTH CAUSE FOR DISCIPLINE**

9 **(Out-of-State Discipline of Respondent's Nursing License)**

10 18. Respondent has subjected her license to disciplinary action under section 2761,
11 subdivision (a)(4) of the Code in that her Arizona registered nurse license was disciplined. The
12 circumstances are as follows:

13 a. As a result of Respondent's conviction for extreme DUI on October 31, 2007,
14 and her conviction for being an accessory to a felony on October 28, 2008 (paragraphs 14 and 17,
15 above), the Arizona Board State Board of Nursing (Arizona Board) alleged that Respondent
16 violated Arizona Revised Statutes (A.R.S.) for unprofessional conduct as follows:

- 17 • Conviction of a felony (A.R.S. § 32-1601(b));
- 18 • Conduct or practice that is or might be harmful or dangerous to the health of a
19 patient or the (A.R.S. § 32-1601(d));
- 20 • Committing an act that deceives, defraud or harms the public (A.R.S. § 32-
21 1601(h));

- 22 • Violating a rule that is adopted by the [Arizona] Board pursuant to this chapter
23 (A.R.S. § 32-1601(j)); and

- 24 • Failing to self-report a conviction for a felony or undesignated offense within
25 ten days after the conviction (A.R.S. § 32-1601(l)).

26 b. On or about February 2, 2011, Respondent entered into a Consent for Entry of
27 Voluntary Surrender with the Arizona Board which allowed Respondent to surrender her nursing
28 license in lieu of a formal hearing on the charges filed against her.

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

1. Revoking or suspending Registered Nurse License Number 586415, issued to Lynda M. Anderson, also known as Lynda M. Pickering, also known as Lynda Michelle Tipps;
2. Ordering Lynda M. Anderson to pay the Board of Registered Nursing the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;
3. Taking such other and further action as deemed necessary and proper.

DATED: November 7, 2012 *for* *Louise R. Bailey*
LOUISE R. BAILEY, M.ED., RN
Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

SD2012704094